

IN RE:      State Farm Insurance                                 )  
                Personal Property Account No. 097709         )      Davidson County  
                Tax Year 2005   )

## Statement of the Case

Original Assessment	Revised Assessment	Back Assessment
\$46,454	\$57,515	\$11,061

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on November 14, 2006, at the Division of Property Assessments' Office. Present at the hearing were Vernon Wells, Jr., et. ux, the taxpayer who represented himself and Mr. Alan Morgan, Division of Personal Property Assessments for the Metro. Property Assessor.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

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In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

It is uncontested that Mr. Wells, the taxpayer, received the Notice of Appraised Value, Classification, and Assessment on or about May 20, 2005. The Notice specifically states that:

If you have questions regarding the charges set forth above, (including classification, assess value, and/or adjustments made, if any) please contact the Assessor's Office at (615) 862-6073 without delay. In addition, if you disagree with the charges set forth above, . . . you may appeal to the Metropolitan Board of Equalization.

The Notice goes on to give the dates by which a request must be made. Mr. Wells failed to contest the values, and as noted, the assessment became final.<sup>1</sup>

Mr. Wells has owned the building since 1975 and stated that when he received the initial notice he thought it was for the building/real property and not the personal property. He stated that by the time he realized the mistake the time for filing to the County had passed. Mr. Wells stated that he did correct the error for 2006 and hopes that the Board will allow a correction for 2005. Mr. Wells had no further explanation for his failure to comply with the statute. A review of the tax record shows that in past years Mr. Wells has been paying personality taxes since 1997.<sup>2</sup>

After reviewing all the documentation and the taxpayers explanation there is, regrettably, not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the County Board.

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<sup>1</sup>This was a forced assessment because the taxpayer/business owner failed to comply with T.C.A. § 67-5-903 by filing the Schedule "B" form.

<sup>2</sup>The administrative judge takes judicial notice of the tax record of the subject.



### ORDER

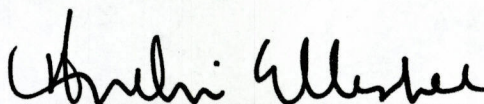
The Administrative Judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and therefore the State Board of Equalization does not have jurisdiction to hear this Appeal.

Pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301—325, T.C.A. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 12th of January, 2007.



ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Vernon Wells, State Farm Insurance Agency  
Jo Ann North, Assessor of Property